

IV. Sam Walton Goes to China: What MNCs Will Find When They Invest Their Foreign Capital in China's Human Capital

The Chinese Daily News Organizing Election Loss

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In the United States the overall picture of labor relations is extremely poor and getting worse. With a few exceptions, the behavior by employers, both public and private, toward employees trying to exercise their rights to form or assist in forming a union is intolerant at best and downright hostile in most workplaces.

Despite the drop in the private sector of unionized workers to less than 8 percent of the eligible workforce, there is still plenty of incentive to have work done outside of the United States. What do multinational corporations (MNCs) find in China on the union front? Well, if our organizing drives at the Chinese Daily News (CDN) and Radio Free Asia (RFA) in Washington, D.C., are any indication, they will find that the union is an extension of the government or the employer. And, according to the workers I spoke with, immigrant workers from Asian countries—it amounts to the same thing—no real voice for the workers.

At the CDN 100 percent of the approximately 150 eligible workers were immigrants. About 30 of those emigrated from China, Vietnam, and Laos, but all 30 are of Chinese descent. In September 2005 we lost a rerun election at the CDN 52 to 92. At RFA, which broadcasts news in nine languages into Asian countries that do not allow a free press, in a unit of about 120 workers we organized, made up of broadcasters and researchers, over 99

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percent are immigrants. About one half of those workers emigrated from China.

The main theme I heard from the workers of Chinese descent was that the unions were run as an extension of management. At both workplaces, there was great suspicion of the role the union would play in their work lives. Many of these workers have been here for only a short period of time or live in communities where little or no English is spoken. But, whether directly or through interpretation, workers expressed fear that the union would place further controls on their work situations. Given their experience and knowledge of unions in China, there was a fear that a union would make their present working conditions worse, not better.

While we were able to overcome this obstacle at RFA, I think we were not successful at the CDN. A simple explanation from many of the workers is that, culturally, Chinese people are used to obeying and not questioning authority. Whether, as a group, they have more, less, or the same loyalty as U.S. workers I cannot say for sure. In organizing I believe we cannot change the way people feel; we can only find other ways to empower them despite their fears.

To put it bluntly, the obedience issue was won at RFA because the people in charge were mostly white men who came across as not respecting the workers when they pressed the loyalty issue. At the CDN the leaders of the organizing were immigrants from Taiwan, and we were never able to gain the other workers' trust.

The CDN is headquartered in Monterey Park, California. Monterey Park is located east of Los Angeles. The CDN is owned by the United Daily News (UDN), which owns newspapers in Taiwan, New York, Los Angeles, San Francisco, Toronto, Vancouver, Paris, Bangkok, and Indonesia. The CDN is the largest circulation paper of the North America publications.

The workers at the United Daily News in Taiwan are represented by a union. The union leadership was, at best, grudgingly supportive of its sister paper's workers' efforts to form a union at the CDN. The union at the UDN is not part of the labor federation in Taiwan. It has been described to me as a company union. And it was clear to the union leaders at the CDN that the UDN union passed on information to management. The union and the UDN are part of the same political party in Taiwan and that seems to play a larger role in the employer/union relationship than collective bargaining.

Another Communications Workers of American (CWA) local does represent the advertising sales department at the sister paper in New York. In fact, they have a collective bargaining agreement that was negotiated at the same time the UDN was opposing unionization at the CDN. Unfortunately, their agreement cost us support at the CDN. The agreement at the *World Journal*

in New York resulted in reduced pay for the sales people. This was a surprise to us. We did not learn of this until a week before the election. And our lead organizers learned of it at a captive-audience meeting held by the employer with the sales department. It was not until six days before the election that our sales department organizer was able to reach someone in New York to confirm the employer's contention.

At another UDN paper in San Francisco, the local that organized the CDN also organized the advertising sales department. Bargaining had been going on for a year and an agreement was close at hand when a decertification petition was filed. With the addition of a relative of management to the unit, and the board allowing a clerical position into the unit, which was not part of the unit in the original election, we lost the vote and were decertified. This also was in the midst of the CDN drive.

For reasons unknown to us, the UDN did not treat the drives in San Francisco and New York in the same manner as it did at the CDN. Simply put, there was no expensive anti-union effort made in either case. Both votes were close and I cannot speak to the UDN's behavior in those drives.

In many ways the CDN organizing drive is not so different from other organizing drives gone bad. The company hired a union-busting firm to run an anti-union campaign; the company hired a law firm to use, really abuse, the National Labor Relations Board (NLRB) and the courts to the company's benefit; and the NLRB rules and practices do not provide workers the protection it was intended to provide.

In addition the CDN exploited the culture and the language of the workers to defeat the organizing drive. I confess to not being able to speak or understand Chinese. Most of what I learned came through translations. One of the organizers working on the campaign was an ex-employee of the CDN. She, too, was born and raised in Taiwan and came to the United States after growing up in Taiwan. Even she admits to limits on her English abilities.

So I believe there are three reasons we lost: (1) the fiercest anti-union campaign I have ever been involved in; (2) the broken NLRB process—this case has been described by many as the poster child for what is wrong with the NLRB organizing procedure; and (3) because of the first two issues, we realized after the vote that we never had a chance to overcome the cultural and language differences the paper exploited.

The organizing campaign was spurred by some changes at the paper in September of 2000. Workers received bonuses once a year equal to about one month's pay. There were annual wage increases. They had a very good health care plan. The jobs were better than most the workers could get because of their limited or nonexistent English skills. It did not matter that there was little or no sick leave. Or that many workers were working longer

than forty-hour weeks with no extra compensation, let alone overtime pay. The terms and conditions were still superior.

Suddenly, the paper announced they would rescind a scheduled pay hike and freeze the pay levels, and the paper had all the employees sign a statement that they were at-will employees who could be fired at any time. That is when we were contacted about organizing. By the end of October, over 95 percent of the workers had signed union authorization cards, and they were submitted to the NLRB.

The response was to fire the president of the paper and replace her. The paper also hired the Burke Group or Labor Information Services, Inc., "to inform employees in the voting unit to exercise their right to choose whether or not they wish to be represented for the purposes of collective bargaining." Labor Information Services, Inc., provided a Chinese-speaking union-buster who had worked on other campaigns with a large group of Chinese workers. John Logan, London School of Economics, wrote an excellent piece, "The Long, Slow Death of Workplace Democracy at the CDN" about the Burke Group.

According to the Department of Labor LM-21 filings, Labor Information Services, Inc., was paid \$221,737.01, \$108,389.07, and \$480,462.23 in 2001, 2002, and 2004, respectively. There is no information for 2003, and 2005 has not yet been filed. It is clear that the amount paid for consulting or union-busting will be in excess of one million dollars. In addition, the CDN hired the law firm of Atkinson, Andleson, Loya, Ruud, and Romo to handle the legal aspects of the case. One of our committee members learned that the paper spent over one million dollars on legal fees prior to the election. But it is not just the money that made this drive so anti-union. It was also the actions of the company. Of course, most of the actions were veiled threats.

There was the usual talk of shutting down the paper if the union won. Having, at the time, a monopoly on a Chinese language newspaper with circulation of over 100,000 made that claim absurd if you understood the newspaper business. Judging from the reaction, many workers do not learn or need to know the economics of owning a newspaper.

There was also talk of moving the work to Taiwan. Much of the news in the paper is about Taiwan, as the target audience is Chinese-speaking immigrants from that country. Again, this is an economic question that most workers do not need to know to do their jobs, and judging from the workers' reactions, there was some fear of this occurring for some of the workers. There were a lot of reports of workers worrying that the paper would go bankrupt if the union won. Later, that was replaced by fear that a wage and hour class-action suit for unpaid overtime would bankrupt the company. There were the usual captive-audience meetings, one-on-ones, and other

threats and rewards. Despite an intensive campaign, the workers voted 78 to 63 on March 21, 2001, for the union.

Up until the first election, most of the anti-union campaign focused on threats and intimidation. After the election it was all that and more. Just two weeks before the election, one of the lead organizers was fired. Other leaders were moved to new jobs with supposedly new responsibilities that made them ineligible for the new election. I already mentioned the new president being named after the union filed for an election. Early in 2005 there was another new president appointed. Hours and working conditions were changed for many of the supporters. Open union supporters were mistreated in comparison to the other workers. This was not the worst anti-union campaign ever, but it definitely ranks up there.

What do MNCs from Asia find here on the labor relations front? They find a system that has totally broken down. The CDN found a friend in the NLRB: Workers vote for the union in March 2001. The employer refuses to accept the vote and appeals to the NLRB Region that the bargaining unit is not appropriate and that the union committed unfair labor practices (ULPs), which should cause the election to be overturned. It takes until August for the Region to rule. The Region rules they got it right the first time. The company appeals to the NLRB in Washington. The NLRB rules in June 2005, more than four years after the first vote, and it orders a new vote. The Board ruling dismissed the company's allegations but ordered a new election based on a new Board standard ordered in December 2004. So, between the election and the December 2004 decision, the Board sat on this case.

The worst part is that ULPs were filed beginning in May 2001, dating from before the election. It took until January 2002 for the first complaints to be issued. Then, the hearings did not begin until August 2004. So, from February 2001 until August 2004, the CDN did not have to answer for their actions. The Board process is such a travesty and a tragedy that any other details are unnecessary.

During the long wait for the NLRB to rule, we explored with the committee the possibility of withdrawing our petition and resubmitting it to speed up the process. The committee resisted this consistently. The explanation was the workers took a legitimate vote. By asking for a new vote, their co-workers would side with the company, which claimed the vote procedure was tainted. And the workers told us that this is the United States—they trusted that the NLRB would honor their honest vote.

Another cultural and language issue had to do with the wage and hour class-action suit. After the case was given class-action status, the court determined there were about 150 current and former employees eligible. An incredible 120 of the eligible workers asked to not be part of the suit. Why

would you refuse to be part of a suit that would not cost you any money and would get you compensated for unpaid hours and unpaid overtime? One reason I was told is that the explanation the company gave to workers (in Chinese) to describe the suit and its possible outcome was equivalent to the paper going bankrupt if the suit prevailed. The other reason is that workers were spoken to almost every day about opting out of the suit. To add to the intimidation, workers who agreed to opt out were told to give their request to the company to ensure the court received their opt out.

Another example of preying on workers cultural fears through anti-union tactics was in December 2002. A petition was distributed by management saying the workers did not want a union at the CDN. Over 95 percent of the workers signed the petition. Was this evidence of a lack of support for the union? Or was it because December is the month for the one-month bonus and workers were afraid of going against their superiors and losing the money? I believe it was the latter.

One of the obstacles of the culture of Chinese people we could not overcome was the loyalty to authority factor. During the first election campaign, a newsletter from the leaders of the organizing drive described having a union as like the union and the employer being the train tracks and the workers being the train. After the union is recognized, the union and the CDN would work together to make the train run most efficiently. The message was that the union was not going to run the company, the company and the union together would make a better newspaper. The rules and the system in the United States allowed the paper to paint a picture of Amtrak instead of a bullet train.

In retrospect, the loss at the Chinese Daily News really was not surprising. Holding a new election nearly five years after 95 percent of the workers had asked for a union does not make much sense. That fifty-two people still believed in the NLRB system after all that passed is a testament to the committee and the belief in our democratic society. Too bad MNCs can see a picture of thwarting workers' rights.